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EXAMINER

GOLBA, TARA M

ART UNIT PAPER NUMBER

3644

DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/934,127

Applicant(s)

WYATT, DANIEL

Examiner

Tara M. Golba

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "872" has been used to designate both the narrow portion of skirt 870 and the first end of sleeve 800, and reference character "874" has been used to designate both the wide portion of skirt 870 and the second end of sleeve 800. A proposed drawing correction or corrected drawings (as well as accompanying corrections in the specification) are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because of the following informality: On line 1, "A expandable" should be --An expandable--. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: On page 8, line 25, "smelt" should be --smelled--. On page 13, lines 8, 13, and 15, "sleeve 12" should be --sleeve 412--. Appropriate correction is required.

### ***Claim Objections***

4. Claims 1, 4, 5, 8-15, and 17 are objected to because of the following informalities:

In claim 1, line 3; in claim 4, lines 7 and 8; in claim 5, lines 4, 5, 6, 7, 9, 11, 13, 14; in claim 9, lines 7, 8, 11, 12; in claim 10, lines 4, 5, 8, 9; in claim 11, lines 5, 6, 9, 10, 13, 14; in claim 12, lines 4, 5, 11, 13; in claim 13, lines 6, 7, 11, 12, 15, 18, 22, 24, 25; in claim 14, lines 4, 5, 8, 9, 13, 14; and in claim 15, lines 5, 15, 20, "is" should be --being--.

In claim 5, line 5, "inner surface" should be --outer surface--.

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In claim 8, lines 4 and 5, "protrudes" should be --protruding--.

In claim 9, line 4, "defines" should be --defining--.

In claim 11, lines 16 and 18, "is" should be deleted.

In claim 12, line 14, "protrudes" should be --protruding--.

In claim 13, line 9, "comprises" should be --comprising--, and in line 19, "protrudes" should be --protruding--.

In claim 15, line 15, "said second end" should be --said second end of said fishing line--.

In claim 17, line 5, "comprises" should be --comprising--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 2,972,831 to Anselmi.

In reference to claim 1, Anselmi discloses an expandable bait sleeve including a sleeve (figure 1-2, element 3) having an interior surface and an exterior surface and a first end and a second end, the first end being open and dimensioned to receive a portion of a bait (figure 2); wherein the sleeve is sufficiently expandable so as to enlarge to a larger diameter when a bait is inserted into the open first end of the sleeve while at the same time the sleeve is sufficiently rigid

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so that the bait is retained in the sleeve by frictional engagement with the interior surface of the sleeve (column 2, lines 47-56).

In reference to claim 3, Anselmi discloses a sleeve comprising a mesh-like configuration defining a plurality of apertures (column 2, lines 21-26).

In reference to claim 7, Anselmi discloses a sleeve wherein the second end is open so that a bait can be inserted through the open first end of the sleeve and pass through the sleeve so that a portion of the bait protrudes out of the open second end of the sleeve (figure 2; column 2, lines 50-53).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 3,724,117 to Flanagan, Jr.

In reference to claim 2, Anselmi discloses the claimed invention except for the sleeve comprising polyethylene terephthalate.

Flanagan, Jr., teaches the use of polyethylene terephthalate for a fishing lure (column 4, lines 7-9) because this material provides sufficient rigidity to maintain a desired configuration and sufficient flexibility to permit lure flexure (column 3, lines 63-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use

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polyethylene terephthalate, as taught by Flanagan, Jr., for the bait sleeve disclosed by Anselmi, in order to achieve the desired combination of rigidity and flexibility.

9. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 4,788,788 to Brockett (cited by applicant).

In reference to claim 4, Anselmi discloses a fishing hook having a line coupling end and a hook end (figures 1-2) but does not disclose a fishing line passing through an aperture defined by the second end of the sleeve.

Brockett teaches a bait sleeve (figure 1, element 16) including a fishing line (element 14) having a second end dimensioned to pass through an aperture defined by the second end of the sleeve (figure 2); and a fishing hook (figure 2, element 12) having a line coupling end and a hook end, the line coupling end being coupled to the second end of the fishing line (column 4, lines 1-2) and the hook end dimensioned to protrude outside of the open first end of the sleeve (figure 2). Although it is not explicitly stated in the reference, it is understood that a fishing line is coupled to a fishing rod for the purpose of casting the line during fishing. Brockett teaches that this hook arrangement ensures that no interference is present to prevent a fish from being hooked (column 5, lines 12-13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to position the hook on the end of a fishing line such that it protrudes outside of the open end of a bait sleeve, as taught by Brockett, in the bait sleeve disclosed by Anselmi, in order to increase the chances of a fish being hooked.

In reference to claim 15, Anselmi, as modified in view of Brockett, discloses the claimed method for catching fish. See discussion of claim 4 above.

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10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 4,133,135 to Miles.

In reference to claim 5, Anselmi does not disclose a swivel harness for the expandable bait sleeve.

Miles teaches a lure including a swivel harness (figure 1, element 46) having a first end and a second end, the first end of the swivel harness dimensioned to swivel and dimensioned to be coupled to a fishing line (element 44); the second end of the swivel harness dimensioned to be coupled to a leader (element 22); a leader (element 22) having a first end and a second end, the first end coupled to the second end of the swivel harness (figure 1); and a fishing hook (figure 2, element 12) having a leader coupling end (element 16) and at least one hook end (element 18), the leader coupling end coupled to the second end of the leader (element 22) and the hook end dimensioned to protrude outside of the lure (figure 2, hook 12 protruding outside of body 52). Miles teaches that the swivel assembly provides a rotational effect which in turn attracts fish (column 1, lines 13-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a swivel harness coupled to a leader which is in turn coupled to a hook, as taught by Miles, in the bait sleeve assembly disclosed by Anselmi, in order to provide an attractive rotational effect. Miles does not teach that the first end of the swivel harness is coupled to an outer surface of a sleeve or that the second end of the swivel harness passes through an inner surface of the second end of a sleeve. However, it would have been obvious to position a sleeve such that the swivel harness extends into the interior of the sleeve, since it has been held that rearranging parts of an invention involves only routine skill in the art.

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11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 4,790,100 to Green, Sr.

In reference to claim 6, Anselmi does not disclose that the second end of the sleeve is molded to a hook.

Green, Sr. teaches a lure in which the second end of the lure is molded to a fishing hook (figure 1; column 5, lines 1-6) so that a line coupling end of the hook (element 23) is coupled to an inner surface of the second end of the lure (figure 1) and a hook end (element 25) of the fishing hook is dimensioned to protrude outside of an upper portion of the lure proximate the second end of the lure (figure 1). Green teaches that this arrangement allows a jig head to be attached to the hook in order to facilitate retrieval of the lure (column 3, lines 54-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the hook-coupling arrangement taught by Green, Sr. to mold a hook to the sleeve disclosed by Anselmi, since this arrangement allows a jig head to be attached to the hook in order to facilitate retrieval of the lure.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 3,760,529 to Hicks.

In reference to claim 8, Anselmi does not disclose the claimed hook arrangement.

Hicks teaches a bait sleeve (figure 1, element 11) including a fishing hook (element 41) coupled to a center portion of the sleeve and having a line coupling end and a hook end (figure 1), the hook end protruding out of the center portion of the sleeve and the line coupling end protruding out of the center portion of the sleeve (figure 1). Hicks teaches that the hook arrangement impales the game fish that tries to take the bait (column 1, lines 35-37). Therefore,



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it would have been obvious to one having ordinary skill in the art at the time the invention was made to couple a hook to a sleeve with both ends protruding out of the center portion of the sleeve, as taught by Hicks, in the bait sleeve disclosed by Anselmi, so as to impale game fish trying to take the bait.

13. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 4,777,757 to de Marees van Swinderen.

In reference to claim 9, Anselmi does not disclose a head coupled to the sleeve or a skirt coupled to the head.

De Marees van Swinderen teaches a bait sleeve (figure 2, element 22) including a head (element 16) coupled to the second end of the sleeve, the head defining an aperture in a center portion thereof dimensioned to allow a fishing line (element 14) to pass through; at least one fishing hook (figure 1, element 12) having a line coupling end and a hook end, the line coupling end dimensioned to be coupled to a fishing line and the hook end dimensioned to protrude outside of the sleeve (figure 1); and a skirt (elements 30, 32) having a narrow portion and a wide portion (figure 3), the narrow portion of the skirt coupled to the head and the wide portion of the skirt dimensioned to cover at least a portion of the sleeve (figure 3). The reference teaches that this lure is easy to assemble and utilizes easily interchangeable components (column 1, lines 32-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a head and skirt to a fishing line and hook assembly, as taught by de Marees van Swinderen, in the bait sleeve disclosed by Anselmi, because the lure components can be easily assembled and interchanged.

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In reference to claim 10, Anselmi discloses a first hook (element 9A or 9B) having a line coupling end (at element 8) and a hook end (element 4A or 4B), the line coupling end dimensioned to be coupled to a fishing line (through eyelet 8) and the hook end dimensioned to protrude outside a center portion of the sleeve (figure 1); and a second fishing hook (element 5) having a line coupling end (at element 8) and a hook end (figure 2), the line coupling end dimensioned to be coupled to a fishing line (through eyelet 8) and the hook end dimensioned to protrude outside the open first end of the sleeve (figure 2, where hook 5 is positioned outside the first end of sleeve 3).

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of de Marees van Swinderen and U.S. Patent No. 6,266,914 to Johnson et al.

In reference to claim 11, Anselmi, as modified in view of de Marees van Swinderen, discloses an expandable bait sleeve including a head coupled to the second end of the sleeve; a fishing hook having a coupling end and a hook end, the coupling end dimensioned to be coupled to the head and the hook end dimensioned to protrude outside of the sleeve; a skirt having a narrow portion and a wide portion, the narrow portion coupled to the head and the wide portion dimensioned to cover at least a portion of the sleeve. See discussion of claim 9 above. Anselmi and de Marees van Swinderen do not disclose an L-shaped shaft, a spinner blade, or a bead.

Johnson et al. teaches a fishing lure including a substantially L-shaped shaft (figure 1, element 10) having a first arm (element 14) and a second arm (element 16), the first arm coupled to a head (element 18) and the center portion of the shaft (element 12) dimensioned to be coupled to a fishing line; at least one spinner blade (element 32, 36) coupled to the second arm of the shaft; and at least one bead (element 40) coupled to the second arm of the shaft. Johnson et

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al. teaches that the spinner blades rotate to attract fish to the lure (column 1, lines 37-40) and that beads allow the spinner blades to be correctly positioned on the arm (column 6, lines 29-31).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a spinner blade and bead on an L-shaped shaft, as taught by Johnson et al., with the bait sleeve disclosed by Anselmi, as modified in view of de Marees van Swinderen, in order to increase the attractiveness of the lure for fish.

15. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of U.S. Patent No. 6,101,758 to Finley.

In reference to claim 12, Anselmi does not disclose a crank bait head coupled to the sleeve.

Finley teaches a crank bait head (figure 1, element 10) having a front portion and a rear portion, the front portion dimensioned to be coupled to a fishing line (element 24); a first fishing hook (element 46) having a first end coupled to the crank bait head and a second end comprising a hook; a wire (element 52) having a first end and a second end, the first end of the wire coupled to the crank bait head (figure 1); and a second fishing hook (element 50) having a wire coupling end and a hook end, the wire coupling end dimensioned to be coupled to the second end of the wire and the hook end protruding outside of a lure assembly (figure 1). Finley teaches that the crank bait assembly allows a user to select the angle at which the lure will dive (column 1, lines 27-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to couple a crank bait head, as taught by Finley, to the bait sleeve disclosed by Anselmi, in order to control the diving angle of the assembly.

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16. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of Johnson et al. and Finley.

In reference to claim 13, Anselmi does not disclose the claimed assembly of a harness, skirt, head, shaft, spinner, and bead.

Johnson et al. teaches a lure assembly including a harness (figure 3, element 24); a first fishing hook (figure 4, element 68) having a first and second end and a center portion, the first end molded to the harness (figures 3-4; column 7, lines 30-34; column 6, lines 1-7), the center portion coupled to a sleeve (figure 3, where the center portion of the hook is coupled to body 18), and the second end comprising a hook (figure 4); a skirt having a narrow portion and a wide portion (figure 4), the narrow portion coupled to the harness (via member 58) and the wide portion covering at least a portion of the hook (figure 4); a head (element 58) having a front portion and a rear portion, the rear portion coupled to the harness (as in figure 3); a shaft (element 54) having a first end and a second end, the second end coupled to a front portion of the head (figure 4) and the first end dimensioned to be coupled to a fishing line (via element 56); at least one spinner blade (element 62) coupled to the shaft; and at least one bead (element 66) coupled to the shaft. Johnson et al. teaches that this assembly avoids twisting of the fishing line (column 7, lines 21-22). Johnson also teaches that the spinner blades rotate to attract fish to the lure (column 1, lines 37-40) and that beads allow the spinner blades to be correctly positioned on the arm (column 6, lines 29-31). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a harness, skirt, head, shaft, spinner, and bead assembly, as taught by Johnson et al., coupled to the bait sleeve disclosed by Anselmi, in order to avoid twisting of the line and to attract fish to the lure.

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Johnson et al. does not teach a wire and a second fishing hook.

Finley teaches a wire (figure 1, element 52) having a first end and a second end, the first end of the wire coupled to the second end of a lure (figure 1); and a second fishing hook (element 50) having a wire coupling end and a hook end, the wire coupling end dimensioned to be coupled to the second end of the wire and the hook end protruding outside the first end of the lure (figure 1). Finley teaches that this hook and wire arrangement prevents damage to the lure assembly by transmitting forces along the body rather than directly to the lip member or detent mechanism (column 5, lines 39-50). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a wire and a second hook, as taught by Finley, in the bait sleeve disclosed by Anselmi, so as to transmit forces in a way that avoids damage to the assembly.

17. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of Johnson et al.

In reference to claim 14, Anselmi, as modified in view of Johnson et al., discloses the claimed invention. See discussion of claim 13 above.

18. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anselmi in view of Brockett as applied to claim 15 above, and further in view of U.S. Patent No. 5,197,219 to Cook, Jr. et al.

In reference to claim 16, Anselmi, as modified, discloses the step of providing a first sleeve with the claimed characteristics (see discussion of claim 1 above); and inserting a bait into the open first end of a sleeve and through the open second end of a sleeve (column 2, lines 47-53). Anselmi, as modified, does not disclose the step of providing a second sleeve and inserting

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a bait into the second sleeve, or the step of cutting the bait into at least two pieces so that each is surrounded by a sleeve. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the step of providing a second sleeve for bait, since it has been held that mere duplication of the essential working parts of an invention involves only routine skill in the art.

Cook, Jr. et al., teaches the step of cutting bait into at least two pieces (column 2, lines 26-28) for the purpose of obtaining multiple bait pieces from a single elongated strip (column 2, lines 17-23). Therefore, it would have been obvious to include the step of cutting bait into two pieces, as taught by Cook, Jr. et al., when it is surrounded by bait sleeves, as disclosed by Anselmi, as modified, in order to obtain multiple bait pieces.

19. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,946,848 to Ysteboe et al. in view of Anselmi.

In reference to claim 17, Ysteboe et al. discloses a method for creating a soft artificial bait including the steps of: providing a skeleton member (figure 1A, element 8); placing the skeleton member in a mold for a soft artificial bait (column 10, lines 7-10); and injecting plastisol into the mold to create a soft artificial bait with the skeleton member as a skeleton (column 10, lines 11-16). Ysteboe et al. does not disclose that the skeleton member is a sleeve comprising a mesh-like configuration.

Anselmi teaches the method of using a bait member in conjunction with a sleeve having an interior and exterior surface and a first and second end, the sleeve comprising a mesh-like configuration defining a plurality of apertures (see discussion of claim 1 above). Anselmi teaches that an outer mesh skeleton holds bait securely but flexibly to allow for free movement

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of the bait's head and tail (column 1, lines 45-49), and that the mesh sleeve prevents the bait from wrapping around a fishing line (column 1, lines 35-36). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a mesh sleeve member, as taught by Anselmi, as the skeleton in the molding process disclosed by Ysteboe et al., in order to hold the bait securely but flexibly on a fishing line while avoiding entanglement with the line.

### *Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 1,788,674 to Hughes

U.S. Patent No. 2,828,571 to Caplan

U.S. Patent No. 3,760,526 to Hicks

U.S. Patent No. 2,467,971 to Frair

U.S. Patent No. 556,494 to Dales

U.S. Patent No. 2,839,866 to Jay

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara M. Golba whose telephone number is (703) 305-0266. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached at (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

tmg  
May 20, 2002

*Charles T. Jordan*  
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